

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESAL PRICE  
LITIGATION

)  
) MDL No. 1456  
) Master File No. 1:01-CV-12257-PBS  
) Sub-Category Case No. 1:08-CV-11200

THIS DOCUMENT RELATES TO:

*United States ex rel. Linnette Sun and  
Greg Hamilton, Relators*

v.  
*Baxter Healthcare Corporation*

)  
) Judge Patti B. Saris  
)  
)  
)

**[PROPOSED] ORDER DISMISSING RELATORS' COMPLAINT**

The Court has considered Baxter Healthcare Corporation's Motion To Dismiss

Relators' Complaint and finds and orders as follows:

1. The Complaint in this matter makes AWP allegations regarding, *inter alia*, the Baxter hemophilia therapy Recombinate. The Complaint was filed on April 22, 2005, with amended complaints filed June 14, 2005 and August 13, 2010.

2. On December 22, 2002, Ven-A-Care filed an amended complaint making similar AWP allegations regarding Recombinate. The Ven-A-Care Complaint was unsealed in May 2010.

3. All essential facts regarding Recombinate and/or the same allegations of fraud in this matter were contained in Ven-A-Care's previously filed Complaint.

4. Pursuant to 31 U.S.C. §3730(b)(5), the Court lacks jurisdiction over Sun/Hamilton's claims regarding Recombinate and therefore Count 1 of the complaint, as relates to Recombinate, is dismissed with prejudice.

5. Hamilton never worked for Baxter and contributed no information regarding the allegation of the Complaint except for Recombinate. Because the Court lacks

jurisdiction over the Recombinate claims, and because Hamilton has no direct or independent knowledge regarding the remaining Advate claims, Hamilton is dismissed from this case. 31 U.S.C. §3730(b)(5); 31 U.S.C. §3730(e)(4).

Dated: \_\_\_\_\_

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Patti B. Saris  
United States District Judge